

constitutional challenge is presented, but I think that authority has to be exercised very sparingly and very carefully.

Time and time again she answered similarly with clear and unambiguous answers.

Some of my colleagues have accused Halligan of lacking candor in her answers. Well, I have sat through a lot of hearings for nominees to Federal courts of appeals, and I know evasion when I see it. Halligan was not evasive. Some of the same people who say she lacked candor still defend Miguel Estrada who didn't answer a single question because he might come before them as a judge.

She answered questions thoughtfully and forthrightly and explained the context of any past statements that might have seemed to have contradicted her current views.

This morning, some of my colleagues on the other side of the aisle pointed to two things that she did not write to try to indicate she has activist views. First, she gave a speech in 2003 on behalf of her boss, Elliott Spitzer, that she did not write herself. In fact, she stepped in at the last minute to give the speech when he could not make it. She did not write it, and she clarified at the time that it did not reflect her personal views.

Second, she was a member of a committee that issued a report on Executive power and enemy combatants. She explained in the committee she hadn't seen the report and didn't agree with either its content or its tone. In her hearing she clearly stated her views on Executive power. This should have cleared up any doubt about her ability to recognize and respect the current state of law.

Finally, I wish to say a word about a red herring argument that has been raised today—that the workload of the DC Circuit is too low to confirm Halligan. I have expressed this concern, too, and, in fact, in 2008 we voted to take away one of the seats in the DC Circuit. It now has 11 judges rather than 12; but I, as well as many of my colleagues on both sides of the aisle have in the past reserved our concern for nominees of the 11th seat and what was then the 12th seat. Halligan has been nominated for the 9th seat. There are only 8 members on that court which now has a roster of 11. The 10th and 11th seats remain vacant. No one ever until now, on either side of the aisle, has ever argued that the DC Circuit should have only eight judges.

I wonder, if control of the body changes, which I don't think it will, or we get a Republican President, which I don't think we will, how quickly our colleagues on the other side of the aisle will abandon that foolish and specious argument.

I am concerned that we are hearing it now for the first time because the current makeup of the court happens to have five Republican appointees and three Democratic nominees.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be given 1½ more minutes to finish this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. When we confirmed President Bush's nominee to the 11th seat in 2005, Thomas Griffith, his confirmation resulted in there being 121 pending cases per judge. We did not hear a peep out of the other side that that was too low. Yet today there are 161 cases per judge. With Halligan's confirmation, it would go down to 143—far more than the 121 when all my colleagues on the other side of the aisle voted for Mr. Griffith, the Republican nominee of President Bush. So there is no reason to argue about caseload.

The fact is, if we cannot confirm Halligan, this will not go down as a vote about caseload, this will be recorded as a new bar for nominees.

In conclusion, when Caitlin Halligan drove with her father from her home in Kansas City to Harvard or when she was a standout student at Georgetown Law School or when she started her work for the New York Attorney General's Office, I am sure she could not have imagined that someday she would be the topic of a debate in the U.S. Senate about whether she was too radical or lacked the candor to be a judge.

I hope that when we vote and the debate is over, my colleagues recognize the truth here: Halligan is a sterling example of a public servant who has worked hard, earned every honor she has received, and fits squarely within the mainstream of judicial thought. She deserves an up-or-down vote today, and I will be proud to cast my vote for cloture on Caitlin Halligan's nomination.

I thank the Chair.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Caitlin Joan Halligan, of New York, to be United States Circuit Judge for the District of Columbia Circuit.

Harry Reid, Patrick J. Leahy, Charles E. Schumer, Christopher A. Coons, Amy Klobuchar, Al Franken, Richard Blumenthal, Sheldon Whitehouse, Richard J. Durbin, Dianne Feinstein, Herb Kohl, Kirsten E. Gillibrand, Tom Udall, Ron Wyden, Robert P. Casey, Jr., Sherrod Brown, Jeanne Shaheen.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Caitlin Joan Halligan, of New York, to be United States Circuit Judge for the District of Columbia Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. HATCH (when his name was called). Present.

The yeas and nays resulted—yeas 54, nays 45, as follows:

[Rollcall Vote No. 222 Ex.]

YEAS—54

Akaka	Hagan	Murray
Baucus	Harkin	Nelson (NE)
Begich	Inouye	Nelson (FL)
Bennet	Johnson (SD)	Pryor
Bingaman	Kerry	Reed
Blumenthal	Klobuchar	Reid
Boxer	Kohl	Rockefeller
Brown (OH)	Landrieu	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Shaheen
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Conrad	Manchin	Udall (CO)
Coons	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Webb
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

NAYS—45

Alexander	DeMint	McCain
Ayotte	Enzi	McConnell
Barrasso	Graham	Moran
Blunt	Grassley	Paul
Boozman	Heller	Portman
Brown (MA)	Hoeben	Risch
Burr	Hutchison	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker

ANSWERED "PRESENT"—1

Hatch

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 45, and 1 Senator responded "present."

Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 6 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

(Whereupon, the Senate, at 12:31 p.m., recessed and reassembled at 2:15 p.m. when called to order by the Presiding Officer (Mr. WEBB)).

The PRESIDING OFFICER. The Senator from Florida.

LATIN AMERICA

Mr. NELSON of Florida. Mr. President, I wanted to share with the Senate today what should be a collective outrage because an American citizen has now been held behind bars in Cuba for exactly 2 years.

Alan Gross was working in Cuba under a contract with the U.S. Agency for International Development. He has devoted his career to helping thousands of people around the world, working in development for over 25 years in more than 50 countries.

In Cuba, Alan Gross was trying to make a difference in the lives of people who share his Jewish faith by bringing them modern communication tools. For that simple act, he has now languished in a Cuban prison for 2 years. His health worsens each day and his family, of course, misses him. His wife Judy spoke to him just days ago and said that Alan sounded "more hopeless and more depressed," as one would expect.

The release of Alan Gross must remain front and center in any discussion with or about the Cuban regime. That is why many of us in this Chamber have joined in writing to the Ambassador of Cuba here—and since we don't have diplomatic relations, that individual is called the Chief of the Cuban Interests Section—and asking the Castro regime to immediately and unconditionally release Alan Gross as a humanitarian gesture and a sign of compassion for his family. We have been met, however, with stonewalling silence.

While we remember Mr. Gross and we keep pressure on the Castro regime, the Senate must also fulfill its duties toward the rest of the Western Hemisphere. A case in point: Four countries in Latin America—Venezuela, Bolivia, Nicaragua, and Ecuador—are currently without a U.S. Ambassador. That is the job of the Senate—to confirm appointments of the President. In the case of Venezuela, it is not because we don't have a nominee, it is because, in fact, we are having some trouble with the Chavez government. We have been without an Assistant Secretary of State for Western Hemisphere Affairs since July. It isn't in the interest of the United States not to have these people in place.

The Senate has basically 2 weeks to go if we get out a week before the Christmas holiday—and that is an "if," by the way. During this time, while we go through all of what we have to do in the next 10 legislative days—such as solving the doctors problem, extending this payroll tax cut, appropriations bills, extending unemployment compensation for people who desperately need it, and extending a lot of the tax extenders—we must also fulfill our constitutional duty to consider these important Presidential appointments.

There is one in front of the Senate right now; that is, the Ambassador to El Salvador. Mari Carmen Aponte is the U.S. Ambassador to El Salvador.

She is well known all over the United States in Hispanic circles because she has held, as a Foreign Service officer, a number of posts. During the August 2010 congressional recess, the President named her Ambassador to El Salvador. That recess appointment is going to expire at the end of this year.

Before joining the State Department, Ms. Aponte served as Executive Director of the Puerto Rican Federal Affairs Administration and president of the very respected Hispanic National Bar Association.

Typical of the sentiment in Florida, an editorial in a recent Miami Herald editorial expressed support for her confirmation, saying that "her diplomatic success has earned her the unprecedented support of the private sector and of the most prominent political leaders in El Salvador." It was unprecedented that three former Presidents of El Salvador came all the way to Washington to show their support during her nomination hearing.

My wife Grace and I were recently visited by the First Lady of El Salvador. She pointed out all of the terrible events that have taken place in her country: struggling to recover from the tropical depression that made landfall this past fall, the heavy rains that have caused major damage throughout Central America, and the 70,000 Salvadorans still living in shelters. That little country faces many challenges. So if for no other reason than those I mentioned, we do not want to continue into next year without our having an ambassador there. We need to confirm Ms. Aponte as soon as possible so that she can continue exercising the necessary U.S. leadership.

Latin American countries continue to be America's fastest growing trade partners. We need to continue to promote that trade. It helps our economy. It deepens the economic linkages. We can explore clean energy initiatives, and we can help them as they continue to strengthen transparency in government and the rule of law. We need to pay more attention to Latin America, not less. Disengagement is not the answer. This is just another reason we need to confirm this nomination as quickly as possible for Ambassador to El Salvador.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF JOHN KATZ

Ms. MURKOWSKI. Mr. President, I rise today to honor a gentleman by the

name of John Katz. John is a longtime public servant to the State of Alaska who is set to retire at year's end. John has served Alaska for more than 40 years, working for eight different Governors, Republican and Democratic, liberals and conservatives. He once said he was comfortable serving so many different Governors because the issues for Alaska were consistent. Whether they be responsible resource development, State sovereignty, or Federal assistance with infrastructure, the one constant figure connecting one administration after the next over eight administrations has been John Katz.

John started his career as a high school teacher and coach in Baltimore City public schools back in 1966, following his graduation from Johns Hopkins University. In 1969, he earned his law degree from the University of California at Berkeley. He then moved to Alaska to work as a legislative and administrative assistant to Congressman Pollock and then later for Senator Ted Stevens.

John has truly played many crucial roles for the State of Alaska. He served for several years as the counsel to the Joint Federal-State Land Use Planning Commission for the State of Alaska. He served as special counsel to Gov. Jay Hammond back in 1979, advocating the State's position on the Alaska National Interest Lands Conservation Act, or ANILCA, to Congress. Two years after that, he was appointed commissioner of natural resources by Governor Hammond. Then, in 1983, John was sent by Gov. Bill Sheffield to head Alaska's Washington, DC, office, and he has served as the liaison between the State and the Federal Government for the past 28 years—a pretty remarkable record, if you would consider it. As Alaskans, we know how important his role has been in bridging the very considerable gap between our State and the Federal Government—a key role when more than 60 percent of Alaska's land is controlled by the Federal Government.

You could refer to John as Alaska's fourth Congressman—his 40-year tenure in the league of the late Senator Stevens and Representative Don YOUNG. John's breadth of knowledge and understanding of Alaska's issues have guided him in his very unique role.

Since entering public service, John has been involved in key issues, such as the passage of the landmark Alaska Native Claims Settlement Act back in 1971, the legislation in 1976 which extended America's fishery zones to 200 miles which allowed for the Americanization of Alaska's fishing fleet. There was also the passage back in 1980 of the Alaska National Interest Land Conservation Act, the Nation's largest conservation lands measure. There was the Alaska Railroad Transfer Act back in 1983, the Tongass Timber Reform Act in 1990 and 30 other major pieces of legislation and hundreds of amendments that have greatly affected the lives of all Alaskans.